

MINUTES OF THE COMMISSION MEETING

Chairman Dustin Johnson called the meeting to order. Present were: Vice Chairman Gary Hanson; Commissioner Steve Kolbeck; Commission Advisor Greg Rislov; Commission Attorney John Smith; Staff Attorneys Karen Cremer and Kara Van Bockern; Staff Analysts Bob Knadle, Martin Bettmann and Nathan Solem.

Also present were: Brett Koenecke, May, Adam, Gerdes and Thompson, representing NorthWestern Energy and TransCanada Keystone Pipeline, LP; Jennifer Scott, TransCanada; James White, Sidley Law Firm, representing Keystone Pipeline, LP; Jeff Decker, representing NorthWestern Energy; Dave Gerdes, May, Adam, Gerdes and Thompson, representing Navitas Energy, Inc. and Xcel Energy; Sam Hawk, Hawk Relay, LLC; Jeff Carmon, Colleen Sebold and Larry Toll, representing Qwest Corporation; Randy Gerloff, representing CSDVRS, LLC; Sara Greff, Woods, Fuller, Shultz and Smith, representing CSDVRS, LLC; Emil Klavetty, Mary Megstad, Deanna Santema, Robert W. Hill and Dennis Falken, Brookings County Commissioner; Doug Copeland and Christopher Moore, Navitas Energy, Inc.; Bryan Roth, McCook Cooperative Telephone Company; Wayne Ortman, Associated Press; Rich Coit, South Dakota Telecommunications Association; Darla Pollman Rogers, Riter, Rogers, Wattier and Brown, representing McCook Cooperative Telephone, Kadoka Telephone Company and Roberts County Telephone Cooperative Association and Bob Miller, South Dakota Electric Utility Companies.

Joining the meeting by DDN in Pierre were: Executive Director Patty Van Gerpen; Deputy Executive Director Heather Forney; Commission Attorney Rolanye Wiest; Staff Analysts Harlan Best, Dave Jacobson, Ketih Senger and Steve Wegman; Consumer Affairs Supervisor, Deb Gregg; and Administrative Secretary Demaris Axthelm.

Joining the meeting by telephone were: Christian Wojnar, representing Hawk Relay, LLC.; Gregory Hlibok, FCC Disability Rights Office; Bill McClelland, UR Relay; Dennis Heinz, NorthWestern Corporation; Ryan Taylor, Cutler and Donahoe LLP, representing Midstate Communications, Inc. and Alliance Communications Cooperative, Inc.; Cindy Grosvenor, Consortia Consulting and Sean Belanger and Karen Strauss, CSDVRS.

Administration

1. **Approval of the Minutes of the Commission Meeting Held on March 13, 2007, and March 27, 2007. (Staff: Demaris Axthelm)**

Commissioner Kolbeck moved to approve the Commission Minutes of March 13, 2007 and March 27, 2007. Motion passed 3-0.

Consumer Reports

1. **Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)**

Ms. Deb Gregg reported that the Commission had received a total of 117 contacts. Since the last report was prepared for the June 5, 2007, Commission meeting, 21 contacts involved telecommunications services; 34 contacts involved electricity issues; 9 contacts

inferred financial issues, 12 contacts involved solid phone issues, 25 contacts involved Do Not Call Registry; and 15 contacts involved issues not regulated by the Public Utilities Commission. In 2007, 1,073 of the 1,236 complaints registered have been resolved informally. In 2006, 2,257 of the 2,466 complaints registered have been resolved informally.

Consumer Complaints

1. **CE07-001 In the Matter of the Complaint filed by Michael McCreight, Mitchell, South Dakota, against NorthWestern Energy Regarding Utility Service Refusal. (Staff Analyst: Deb Gregg, Staff Attorney: Kara Van Bockern)**

Ms. Kara Van Bockern stated that she has been in contact with Mr. Michael McCreight and Mr. McCreight no longer desires electrical service at the Stardust Motel in Mithchell, SD and has asked that his complaint be dismissed. Mr. Koenecke, representing NorthWestern Energy, stated that the owner of the Stardust Motel has entered into a purchase agreement with another person and agrees with Staff that it is appropriate to close Docket CE07-001.

Commissioner Kolbeck moved to dismiss and close Docket CE07-001. Motion passed 3-0.

Electric

1. **EL05-023 In the Matter of the Application of Xcel Energy for a Construction Permit to Build 9.6 Miles of the Split Rock to Lakefield Junction 345 kV Transmission Line and Add Facilities to the Split Rock Substation. (Staff Analysts: Bob Knadle/Martin Bettmann, Staff Attorney: Karen Cremer)**

Mr. Dave Gerdes stated that Xcel Energy is negotiating with the South Dakota Department of Transportation and the Federal Department of Transportation on the configuration of the 345 KV line. Ms. Karen Cremer recommended that the Commission approve the motion to extend the final approval deadline.

Chairman Johnson moved to approve the motion to extend the final approval deadline in Docket EL05-023. Motion passed 3-0.

2. **EL06-020 In the Matter of the Application by Navitas Energy, Inc. for an Energy Conversion Facility Permit for the Construction of the White Wind Farm and Associated Collection Substation and Electric Interconnection System (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Karen Cremer)**

Mr. Chris Moore stated that the White Wind Farm is a 200 MW wind farm in Brookings County. Mr. Moore further stated that Navitas Energy has entered into a stipulation with the parties for Commission approval and has completed the Federal Environmental Impact statement. Dennis Falken stated that Brookings County Planning and Zoning Commission has worked on the project, all questions have been answered, and Brookings County is comfortable with the Navitas project and has no objections. Ms. Karen Cremer stated that staff recommends that the Commission approve the Settlement Stipulation, approve the construction permit and include the South Dakota Rural Electric Association Stipulation that was filed on May 15, 2007, and approved by the Commission on May 22, 2007, as part of this order.

Chairman Johnson made a motion to approve the settlement stipulation, the construction permit and to incorporate the South Dakota Rural Electric Association stipulation as recommended by staff. Motion passed 3-0.

3. **EL07-019** In the Matter of the Filing by NorthWestern Corporation d/b/a NorthWestern Energy for Approval of a Contract with Deviations with Burlington Northern and Santa Fe Railroad. (Staff Analyst: Dave Jacobson, Staff Attorney: Karen Cremer)

Mr. Jeff Decker, representing NorthWestern Corporation d/b/a NorthWestern Energy (NWE) stated that the Burlington Northern Railroad has installed two new switch track heaters, which requires installation of 3,500 feet of cable, transformers and other related material. NWE requested approval of a contract with deviations and associated tariff revisions to recover the cost to serve Burlington Northern Railroad. Mr. David Jacobson of Staff recommended that the Commission approve the contract with deviations and associated tariff revisions.

Chairman Johnson moved to approve the contract with deviations and associated tariff revisions. Motion passed 3-0.

4. **EL07-020** In the Matter of the Joint Request for an Electric Service Territory Boundary Change between Clay-Union Electric Corporation and NorthWestern Energy. (Staff Analysts: Nathan Solem/Martin Bettmann, Staff Attorney: Karen Cremer)

Mr. Nathan Solem of Staff stated that Clay-Union Electric Corporation (Clay-Union) and Northwestern Public Service, d/b/a Northwestern Energy (NWE) jointly filed for transfer of a three phase electric service located on the east half of the southeast quarter, Section 18, Township 94 North, Range 54 West, of Yankton County, SD. Mr. Solem further stated that Clay-Union would have to build two miles of a three phase line to serve the new irrigation service in its territory and since NWE already has a three phase within a half a mile of the location, transfer of this service to NWE would result in the unnecessary duplication of service and promotes the efficient and economical use and development of NWE's and Clay Union's systems. Mr. Solem stated that this transfer is limited to this three phase load only and does not include any additional loads in the said location, no existing customers are affected, the owner of the property has agreed in writing to this proposal, and Staff recommends approval.

Vice Chairman Hanson moved to approve the electric service territory boundary change in Docket EL07-020. Motion passed 3-0.

Natural Gas

1. **NG06-011** In the Matter of the Filing by NorthWestern Corporation d/b/a NorthWestern Energy for Approval of Tariff Revisions. (Staff Analyst: Dave Jacobson, Staff Attorney: Kara Van Bockern)

Mr. Jeff Decker, representing NorthWestern Corporation d/b/a NorthWestern Energy (NWE) stated that this is a tariff revision requiring third party marketers to assure adequate creditworthiness prior to obtaining service on the NWE's system. NWE currently has two marketers on its system and with this filing NWE seeks to obtain approval to determine creditworthiness of marketers on NWE's system. NWE is seeking protection for itself and NWE's customers from defaults in payments by marketers. Cornerstone Energy and NWE have reached an agreement that language with intra-day meter readings to the marketers be included in the tariff revisions. Mr. Dave Jacobson stated that staff recommends approval.

2. **NG07-013** In the Matter of the Application by NorthWestern Corporation d/b/a NorthWestern Energy for Authority to Increase its Natural Gas Rates. (Staff Analysts: Dave Jacobson/Keith Senger/Bob Knadle/Martin Bettmann/Nathan Solem/Steve Wegman, Staff Attorney: Karen Cremer)

Mr. Dave Jacobson explained that the items up for approval are the routine actions historically taken at the beginning of a rate case. Mr. Jacobson clarified that Staff is requesting authority for the Staff, through the Executive Director, to contract with the consultant according to the terms put forth in the consultant's proposal that the Commission has been presented with, and that the actual contract will subsequently be submitted to the Commissioners for their signatures. Mr. Brett Koenecke stated that Northwestern Energy had no objection to Staff's recommendations.

Vice Chairman Hanson moved to suspend the imposition of the tariff for 90 days beyond July 1, 2007, assess a filing fee for actual expenses not to exceed \$100,000 and the Executive Director to execute a contract with the consultant pursuant to the terms in the proposal in Docket NG07-013. Motion passed 3-0.

Telecommunications

1. **TC07-014** In the Matter of the Application of Hawk Relay, LLC for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analysts: Brian Rounds/Keith Senger, Staff Attorney: Karen Cremer)

See Transcript online:

http://www.state.sd.us/puc/commission/minutes/minutes_2007/transcripts/tc07-014.pdf

Chairman Johnson moved to grant a Certificate of Authority (COA) to Hawk Relay LLC to provide interexchange services with a waiver from providing financial statements, waiver from providing a tariff, restrictions from providing any prepaid services and from accepting or collecting any deposits or advance payments, restriction from providing any end-user services that require end-user billing, and Hawk Relay's COA be limited to the provisioning of VRS, IP Relay or other future FCC approved TRS services. Hawk Relay must seek additional Commission authority should it wish to provide any end-user billed service or prepaid service or collect any advance customer payments or deposits. Motion passed 3-0.

2. **TC07-020** In the Matter of the Filing by Matrix Telecom, Inc. d/b/a Matrix Business Technologies for an Exemption from Developing Company Specific Cost-Based Switched Access Rates. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that administrative rule ARSD 20:10:27:07 requires a company to file a cost study every three years. Matrix Telecom, Inc. (Matrix) is requesting waivers of the three year filing requirement and also of 20:10:27:12 which would require its switched access rate to be based on the average cost and minutes of use of telecommunication companies with less than 100,000 access lines, provided Matrix's intrastate switched access rates are equal to or less than those of Qwest Corporation and to file adjustments to its switched access rates as

being as such rate of service of the tariff. Staff also recommended that the intrastate switched access tariff be approved.

Commissioner Kolbeck moved to approve the intrastate switched access tariff and grant the petition and waivers requested by Matrix Telecom, Inc. d/b/a Matrix Business Technologies in Docket TC07-020 subject to the conditions recommended by Staff. Motion passed 3-0.

3. **TC07-034** In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and Comtel Telcom Assets LP d/b/a VarTec Telecom. (Staff Attorney: Karen Cremer)

Ms. Karen Cremer stated that the amendment has been properly filed, has been properly executed and does not appear to contain discriminatory provisions. No comments were filed, and Staff recommends approval of the Amendment.

Chairman Johnson moved to approve the amendment to the agreement in Docket **TC07-034**. Motion passed 3-0.

4. In the Matter of the Request for Certification Regarding the Use of Federal Universal Service Support in Dockets TC07-035, TC07-037, TC07-040, TC07-043, TC07-046, TC07-048, TC07-049, TC07-050, TC07-051, and TC07-053

TC07-035 In the Matter of the Request of West River Cooperative Telephone Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-037 In the Matter of the Request of Midstate Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-040 In the Matter of the Request of Alliance Communications Cooperative, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-043 In the Matter of the Request of Western Telephone Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-046 In the Matter of the Request of Roberts County Telephone Cooperative Association and RC Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-048 In the Matter of the Request of Tri-County Telcom, Inc. for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-049 In the Matter of the Request of McCook Cooperative Telephone Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-051 In the Matter of the Request of Bridgewater-Canistota Independent Telephone Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

TC07-053 In the Matter of the Request of Kadoka Telephone Company for Certification Regarding its Use of Federal Universal Service Support. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that the respective companies have filed according to the Commission administrative rules for the certification of their use of federal universal service support and the companies have certified that their support will be used in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254. Staff has reviewed the filings and recommends that the Commission grant the requests for certification and issue certification letters to the FCC and the USAC.

Chairman Johnson moved to certify the use of USF funds and issue certification letters in Dockets TC07-035, TC07-037, TC07-040, TC07-043, TC07-046, TC07-048, TC07-049, TC07-050, TC07-051, and TC07-053. Motion passed 3-0.

5. **TC07-073** In the Matter of the Application of CSDVRS, LLC for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analyst: Keith Senger, Staff Attorney: Karen Cremer)

See Transcript online:

http://www.state.sd.us/puc/commission/minutes/minutes_2007/transcripts/tc07-073.pdf

Chairman Johnson moved to grant a Certificate of Authority (COA) to CSDVRS LLC to provide interexchange services, with a waiver from providing a tariff, restrictions from providing any prepaid services and from accepting or collecting any deposits or advance payments, restriction from providing any end-user services that require end-user billing, and CSDVRS LLC's COA be limited to the provisioning of VRS, IP Relay or other future FCC approved TRS services. CSDVRS LLC must seek additional Commission authority should it wish to provide any end-user billed service or prepaid service or collect any advance customer payments or deposits. Motion passed 3-0.

6. **TC07-077** In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and Houlton Enterprises, Inc. d/b/a Guaranteed Phone Service. (Staff Attorney: Kara Van Bockern)

Ms. Kara Van Bockern stated that the amendment has been properly filed, has been properly executed and does not appear to contain discriminatory provisions. No comments were filed, no interveners have filed and staff recommends approval of the Amendment.

Vice Chairman Hanson moved to approve the amendment to the agreement in Docket TC07-077. Motion passed 3-0.

Administration

1. Establishment of the Gross Receipts Tax levy for the 2008 Fiscal Year (Deputy Executive Director: Heather Forney)

Ms. Heather Forney stated that the Commission shall, by order, establish the rate and assess the gross receipts tax authorized in SDCL 49-1A-3. That assessment, together with any funds remaining from the current fiscal year and the two hundred fifty dollar minimum fee, will fund the Commission's budget for the next fiscal year and provide a contingency reserve in an amount not to exceed the prior year's budget, in accordance with SDCL 49-1A-5. Ms. Forney recommended that the commission establish the rate of .0015 with a two hundred fifty dollar minimum.

Commissioner Kolbeck moved that the Commission establish the rate recommended by the Deputy Executive Director and assess the Gross Receipts Tax as authorized in SDCL 49-1A-3. Motion passed 3-0

ADDENDUM TO THE AGENDA OF COMMISSION MEETING

Hydrocarbon Pipeline

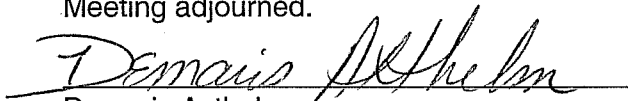
- 1. HP07-001 In the Matter of the Application of TransCanada Keystone Pipeline, LP for a Permit under the South Dakota Energy Conversion and Transmission Facility Act to Construct the Keystone Pipeline Project. (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Kara Van Bockern)**

See Transcript online:

http://www.state.sd.us/puc/commission/minutes/minutes_2007/transcripts/hp07-001.pdf

The issues raised by the various requests for release of information filed as confidential were discussed. The Commission took no action and took the matter under advisement in order to allow for additional legal research and consideration of these issues.

Meeting adjourned.


Demaris Axthelm
Administrative Secretary